

REMARKS

It is respectfully requested that this application be reconsidered in view of the above amendments and the following remarks and that all of the claims remaining be allowed.

Amendments

Claims 1-25, 27, 28, and 30-33 are canceled without disclaimer or prejudice. Applicants reserve the right to file a continuation or divisional application, or take such other action to preserve their rights to the canceled subject matter.

New claim 34 is supported in the specification, for example, at paragraph [0035], page 7, which states in part "at least two viruses which can be used to phenotype tumors according to the present invention. The viruses are preferably selective for neoplasms with different phenotypes." New claim 34 is further supported, for example, by claim 28 as filed.

New claims 37 is supported, for example, by claim 24 as filed and by the specification at paragraph [0032], page 6.

New claim 38 is supported in the specification, for example, at paragraph [0035], page 7, which states in part "Preferably, the viruses are selected from the group consisting of reovirus, VSV, the ONYX-015 virus, and the Delta24 virus."

New claims 35, 36, and 39-43 are supported, for example, by claims 2-8, respectively.

The Examiner is respectfully requested to enter these amendments.

Request for Continued Examination

Applicants hereby request continued examination of the present application under 37 C.F.R. §1.114.

Rejections

Claims 23-25 stand rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. Claim 23 stands rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Roberts et al., US 200-/0165465 A1 [*sic*] (apparently US 2003/0165465). Claims 1-6, 8-13, 15,

24 and 25 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Norman, K.L. J. Clin. Invest. (April 2000) Vol. 105, No. 8, 1035-1038, and Fueyo, U.S. Pat. Appl. No. 2004/0029112 A1. Claims 1-6, 8-13, 15, 24 and 25 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Fueyo, U.S. Pat. Appl. No. 2004/0029112 A1 and Strong, J.E. et al., EMBO (1998) Vol. 17, No. 12, 3351-3362. Because these claims have been canceled, the preceding rejections are now moot. Applicants respectfully request the rejections be withdrawn.

New claims

None of the above-cited references discloses or suggests all the limitations of the new claims. In particular, none of the cited references disclose or suggest a method of diagnosing a neoplasm in an animal by phenotype, comprising:

- (a) providing a biological sample from the animal, wherein the sample comprises cells;
- (b) providing at least two oncolytic viruses, wherein each oncolytic virus selectively replicates in neoplastic cells having a phenotype selected from the group consisting of ras pathway activation, interferon-resistance, p53-deficiency and Rb-deficiency; and wherein the at least two oncolytic viruses replicate in neoplastic cells having different phenotypes;
- (c) contacting the sample with each of the at least two oncolytic viruses under conditions which allow each oncolytic virus to selectively replicate in the neoplastic cells having the phenotype for which each oncolytic virus is specific;
- (d) determining if each of the oncolytic viruses can replicate in the sample; and
- (e) diagnosing a neoplasm in the animal of a specific phenotype according to the ability of each of the oncolytic viruses to replicate in the sample.

Thus, the presently claimed invention is neither anticipated nor rendered obvious by the above cited references. The Examiner is respectfully requested to enter and allow the new claims.

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Conclusion

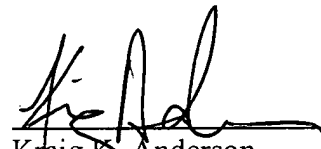
For the reasons set forth above, Applicants submit that the claims of this application are patentable. Reconsideration and withdrawal of the Examiner's rejections are hereby requested. Allowance of the claims remaining in this application is earnestly solicited. In the event that a telephone conversation could expedite the prosecution of this application, the Examiner is requested to call the undersigned at (650) 839-5078.

Enclosed is a check in the amount of \$395.00 for the RCE fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: _____

March 18, 2006



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